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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

BRYANT K. BLOCK, SR. : DOCKET NO. 05-1428
VS. : JUDGE MINALDI
JO ANNE B. BARNHART, : MAGISTRATE JUDGE WILSON
COMMISSIONER OF SOCIAL
SECURITY

MEMORANDUM ORDER

Currently before the court is a motion for appointment of counsel" [doc. # 3] filed by *pro se* plaintiff, Bryant K. Block, Sr. By this motion, plaintiff seeks to have the court appoint counsel to assist him in the above-captioned social security case.

Congress has not specifically authorized courts to appoint counsel for plaintiffs proceeding under 42 U.S.C. § 405. Thus, the court must look to the more general authority of 28 U.S.C. §1915(e)(1) to consider plaintiff's request for court-appointed counsel. Section 1915(e)(1) provides that in *in forma pauperis* proceedings, the "court may request an attorney to represent any person unable to afford counsel." This provision does not, however, empower federal courts to make compulsory appointments. *Mallard v. United States District Court for the Southern District*, 109 S.Ct. 1814 (1989). Further, such requests are generally only made where 'exceptional circumstances' are present. *See Robbins v. Maggio*, 750 F.2d. 405 (5th Cir. 1985); *Ulmer v. Chancellor*, 691 F.2d. 209, 212 (5th Cir. 1982) and *Jackson v. Cain*, 864 F.2d. 1235, 1242 (5th Cir. 1989).

While no precise definition of "exceptional circumstances" is available, it is proper to consider the following factors in the determination of whether the plaintiff is entitled to have the court request that counsel assist him in his suit:

1. the type and complexity of the case;

2. the petitioner's ability to adequately present and investigate his case;
3. the presence of evidence which largely consists of conflicting testimony so as to require skill in presentation of evidence and cross-examination;
4. the likelihood that appointment will benefit the petitioner, the court, and the defendants by "shortening the trial and assisting in just determination."

See, Parker v. Carpenter, 978 F.2d. 190 (5th Cir. 1992), citing *Murphy v. Kellar*, 950 F.2d. at 293, n.14; *see also Ulmer*, 691 F.2d. at 213, (citations omitted), and *Jackson*, 864 F.2d. at 1242.

Additionally, the court can consider whether the plaintiff has demonstrated the inability to secure private counsel on his own behalf. *See Jackson*, 864 F.2d. at 1242; *Ulmer*, 691 F.2d. at 213.

In support of his motion, plaintiff indicated that he has not spoken with any attorneys about handling his case. Accordingly, the court finds that plaintiff's lack of any effort on his own behalf to procure counsel weighs heavily against the appointment of counsel.

Most plaintiffs in social security cases have little trouble in obtaining representation if they seek it. Upon request, the Social Security Administration generally provides the plaintiff with a list of attorneys in the area willing to take these types of cases.¹ Additionally, because the Equal Access to Justice Act, 28 U.S.C. § 2412, *et seq.*, provides for the recovery of attorney fees to a prevailing plaintiff, the attorney is assured of payment if the claim is successful.

For these reasons, the court finds that the motion for appointment of counsel should be denied at the present time as the plaintiff has not demonstrated "exceptional circumstances" which would warrant the appointment of counsel.

Accordingly, plaintiff's motion for appointment of counsel [doc. # 3] is hereby DENIED.

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 12th day of August, 2005.


ALONZO P. WILSON
UNITED STATES MAGISTRATE JUDGE

¹ Attached hereto is a representation referral list which is often provided to claimants during the administrative process.

Important Notice

IF YOU WANT TO OBTAIN A PRIVATE ATTORNEY to represent you but you have been unable to find one, a private attorney may be obtained by contacting one of the organizations shown below. You will be referred to a private practicing lawyer who is familiar with representing claimants before the Social Security Administration. Some private attorneys may be willing to take your case under a fee agreement whereby no fee will be charged unless your claim is allowed. The attorney must first obtain approval from the Social Security Administration for any fee charged.

Organization	Address	Telephone
Lafayette Parish Lawyer Referral Service	P. O. Box 2194 Lafayette, LA 70502	337-237-4700
Lawyer Referral Service (Lake Charles Area Only)	1011 Lakeshore Drive, Suite 402 P. O. Box 3002 Lake Charles, La 70602-3002	337-436-3308 or 800-256-1955
Natl Org. of SS Claimants' Representatives	6 Prospect Street Midland Park, New Jersey 07432	(800) 431-2804

IF YOU ARE UNABLE TO PAY FOR LEGAL REPRESENTATION and you believe you might qualify for free legal representation, you should contact one of the following organizations. If they are unable to help you, they may refer you to a private attorney.

Organization	Address	Telephone
Acadiana Legal Services Corp.	414 Providence Street New Iberia, LA 70560	337-367-2204
Acadiana Legal Services Corp.	910 N. Market Opelousas, LA 70470	337-942-4670
Acadiana Legal Services Corp.	1020 Surrey Street P. O. Box 4823 Lafayette, LA 70502	337-237-4320 or 800-256-1175
Capital Area Legal Services Corp.	P. O. Box 550 Jackson, LA 70748	225-634-2664
Capital Area Legal Services Corp.	801 Barrow Street Suite 305 Houma, LA 70361	225-851-5687 or 800-256-1660
Capital Area Legal Services Corp.	200 Third Street Baton Rouge, LA 70801	225-387-5173 or 800-256-1900
Capital Area Legal Services Corp.	313 Nichols Baton Rouge, LA 70801	225-473-4100 or 800-256-1900
Central Louisiana Legal Services	300 S. First Leesville, LA 71446	318-238-4172
Central Louisiana Legal Services	Court House Bldg. 301 N. Main Marksville, LA 71351	318-253-6618 or 318-253-7291
Central Louisiana Legal Services	628 Murray Street Alexandria, LA 71309	318-443-7281 or 800-256-4243
Kisatchie Legal Aid Society	1134 St. Denis Street P. O. Drawer 1189 Natchitoches, LA 71457	318-352-7220 or 800-960-9109
Southwest LA Legal Services Society Inc.	1011 Lakeshore Drive, Suite 402 P. O. Box 3002 Lake Charles, LA 70602-3002	337-436-3308 or 800-256-1955